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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,372	09/14/2005	Bart Van Rompaey	FR030029	3469

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EXAMINER

SASINOWSKI, ANDREW

ART UNIT	PAPER NUMBER
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2627

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09/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,372	Applicant(s) VAN ROMPAEY ET AL.	
	Examiner ANDREW J. SASINOWSKI	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 4, 8 – 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto et. al. [US 6,526,019] in view of Moribe et. al. [US 5,661,703].

Regarding claim 1, Yoshimoto teaches:

- a data carrier **[abstract]** comprising a first area **[claim 1, note non-rewritable area]**
- a second area comprising a rewritable material **[claim 1, see rewritable area],**
- said first area being defined as a read-only area by means of type information recorded on said data carrier in a type area which is different from said first area **[claim 1, note structure management table in predetermined part of disk].**

Yoshimoto does not teach:

- type information recorded on said data carrier in an inerasable way

Moribe does teach:

- type information recorded on said data carrier in an inerasable way

[abstract]

It would have been obvious at the time of the invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto with the inerasable writing taught by Moribe because the inerasable mark could be used to prevent illegal copy of the data carrier **[Moribe, abstract]**

Regarding claim 2, Yoshimoto also teaches:

- Wherein said first area and said second area are being parts of a same layer of said data carrier **[claim 1, note that each layer has both 1st and 2nd areas]**

Regarding claim 3, Moribe teaches:

- said data carrier comprising a central part **[fig. 9]**, the first area being nearer to said central part than the second area **[fig. 9, S1 and S2]** for recording content by a manufacturer **[s1, note medium ID is written by the manufacturer]** of the data carrier and the second area is for recording data by a user of the data carrier **[S2]**.

It would have been obvious at the time of the invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto with the first and second area locations taught by Moribe because the inside area could be used to unerasably record a unique medium identification code **[Moribe, claim 20]**

Regarding claim 4, Moribe teaches:

- said type information recorded by means of pits and lands **[col. 13, line 49]**.

It would have been obvious at the time of the invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto with the pits and lands taught by Moribe because pre-stamped pits and lands cannot be erased by means of laser rewriting.

Regarding claims 8-10, Yoshimoto also teaches:

- wherein the type information include location of the first area **[col. 2, lines 23-25, where the first area would be the target sector]**.
- wherein the type information include type and location of the first area and the second area **[where the target sector would be the desired type and location]**.
- wherein an area of the data carrier having no associated type information in the type area comprises a rewritable area **[col. 5, lines 52 – 56, note that since all of the type area section could be rewritten with permission, part of the type area without specific designation could also be rewritten]**.

Regarding claim 12, Yoshimoto teaches:

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- A method of writing on a data carrier comprising the acts of: writing content in a first area of the data carrier **[col. 6, lines 12 – 20]**; and
- after the act of writing recording, in a type area in an unerasable way, type information that defines the first area as a read-only area; wherein the type area is different from the first area **[col. 6, lines 12 – 20, note that the zones would be altered after copying the data]**.

Yoshimoto does not teach:

- type information recorded on said data carrier in an inerasable way

Moribe does teach:

- type information recorded on said data carrier in an inerasable way

[abstract]

It would have been obvious at the time of the invention to one with ordinary skill in the art to combine the method taught by Yoshimoto with the inerasable writing taught by Moribe because the inerasable mark could be used to prevent illegal copy of the data carrier **[Moribe, abstract]**

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe in view of Shigemori [US 6,125,089].

Regarding claim 5, Yoshimoto in view of Moribe teaches

- The data carrier as in claim 1 that contains type information

However, Yoshimoto Moribe does not teach

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- wherein type information is recorded by means of a frequency modulated wobble.

Shigemori teaches

- a data carrier wherein information is recorded by means of a frequency modulated wobble **[col. 1, line 22]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto in view of Moribe with the means of recording by frequency modulation wobble with the data carrier taught by Shigemori because it is well known in the art that optical disks recorded using FM wobble can be later demodulated to obtain time codes for each sector on the optical disk **[Shigemori, col. 1, line 23]**

Regarding claim 6, Shigemori teaches:

- a rewritable Compact Disc **[col. 1, line 17]** wherein the type information of the lead-in area of the optical disk encoded as Absolute Time in Pre-groove data **[col. 1, line 31]**.

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the method of recording data in the lead-in area of the optical disk encoded as Absolute Time In Pre-groove data taught by Shigemori with the Compact Disk with type information taught by Yoshimoto in view of Moribe because the Absolute Time in Pre-Groove area is used to encode many types of data including synchronization data **[Shigemori, col. 1, line 36]**.

Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe in view of Shigemori, as applied to claim 5 above, and further in view of Endoh [US 7,280,461].

Yoshimoto in view of Moribe in view of Shigemori does not teach:

- wherein type information is encoded as Permanent Information and control data.

Endoh teaches:

- wherein type information is recorded by mean of frequency modulated wobble [**col. 16. line 44**], and information is encoded as Permanent Information and control data [**col.16, line 40**].

It would have been obvious at the time of invention to one with ordinary skill in the art to combine disc wherein type information is recorded by means of frequency modulated wobble and information is encoded as Permanent Information and control data taught by Endoh with the data carrier taught by Yoshimoto in view of Moribe in view of Shigemori because the several types of data can be coded as Permanent Information and Control data, such as Table of Contents data [**Endoh, col. 3. line 51 - 52**]

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe as applied to claim 1 above, and further in view of Willis [2004/0044567]

Yoshimoto in view of Moribe do not teach:

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- wherein content of the read-only area includes an advertisement.

Willis teaches:

- wherein content of the read-only area includes an advertisement **[\$0052, note advertisements are stored on a read-only memory.]**

It would have been obvious at the time of invention to one with ordinary skill in the art to combine the data carrier taught by Yoshimoto in view of Moribe with read-only advertisements taught by Willis because other information (such as medium reading/writing parameters) could be stored in the read-only area.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimoto in view of Moribe as applied to claim 12 above, and further in view of Lee et. al. [2004/0032813].

Regarding claim 13, Yoshitomo in view of Moribe do not teach:

- wherein the recording act is performed by adding the type information in a wobble, and printing a wobbled groove on the data carrier including the wobble.

Lee does teach:

- wherein the recording act is performed by adding the type information in a wobble, and printing a wobbled groove on the data carrier including the wobble **[fig. 10, also see \$0063]**.

It would have been obvious to one with ordinary skill in the art at the time of invention to combine the method taught by Yoshimoto in view of Moribe with the

printed wobble taught by Lee because it would allow good reproducing characteristics if the disc had more than one layer **[Lee, §0065]**.

Response to Arguments

Examiner has entered the amendments to claim 3. New claims 12 and 13 have also been entered.

Applicant's arguments filed 6/19/2009 have been fully considered but they are not persuasive.

Regarding claim 1, applicant has argued that Yoshimoto does not disclose or suggest a first area being defined as a read-only area by type information recorded on said data carrier in an unerasable way in a type area which is different from said first area.

Examiner respectfully disagrees with the argument presented by the applicant. Yoshimoto does teach the individual elements associated with claim 1, as discussed in the above rejection. Note that the "structure management table" (i.e., the table which defines rewriteable and read-only areas) taught by Yoshimoto can (and is) modified by the user [see col. 16, lines 57 - 59]. Therefore, the table must be in a re-writeable section of the disc. Therefore, the first area (read-only) is defined as such in a type area which is different (rewriteable) from the first area.

Additionally, applicant argues that Moribe does not teach that the inerasable data defines an area as a read-only area. In response to applicant's arguments against the

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references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding claim 3, applicant asserts that Moribe does not teach “said data carrier comprising a central part, the first area being nearer to said central part than the second area for recording content by a manufacture of the data carrier and the second area is for recording data by a user of the data carrier.” Examiner respectfully disagrees, noting that the ID code taught by Moribe is located on the ‘central part’ of the disc, and the user data area is located outside of the central part.

Regarding claim 3, applicant argues that Willis does not teach the three type areas on the disc. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW J. SASINOWSKI whose telephone number is (571)270-5883. The examiner can normally be reached on Monday to Friday, 7:30 to 5:00, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on (571)272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AJS

/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627